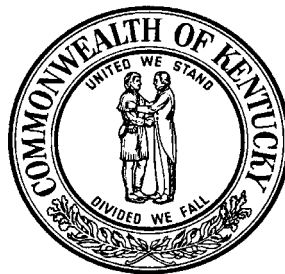


**LETTER FROM THE AUDITOR OF PUBLIC ACCOUNTS  
PERSONNEL CABINET**

**In Reference to the Statewide Single Audit  
of the Commonwealth of Kentucky**

**For the Year Ended  
June 30, 2005**



**CRIT LUALLEN  
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CRIT LUALLEN  
AUDITOR OF PUBLIC ACCOUNTS

To the People of Kentucky  
Honorable Ernie Fletcher, Governor  
Erwin Roberts, Cabinet Secretary  
Personnel Cabinet

**MANAGEMENT LETTER**

KRS 43.090 (1) requires the Auditor of Public Accounts, upon completion of each audit and investigation, to prepare a report of all findings and recommendations, and to furnish copies of the report to the head of the agency to which the report pertains, and to the Governor, among others. This KRS also requires the Personnel Cabinet to, within 60 days of the completion of the final audit, notify the Legislative Research Commission and the Auditor of Public Accounts of the audit recommendations it has implemented and those it has not implemented and any reasons therefore. We are providing this letter to the Personnel Cabinet in compliance with KRS 43.090.

The work completed on the Personnel Cabinet is part of the overall opinions included in the audit of the Commonwealth of Kentucky's Comprehensive Annual Financial Report (CAFR) and Statewide Single Audit of Kentucky (SSWAK). Findings and recommendations for agencies, audited as part of the CAFR and SSWAK, if applicable, can be found in the Statewide Single Audit Report. This report can be obtained on our website at [www.auditor.ky.gov](http://www.auditor.ky.gov).

In planning and performing our audits of the Commonwealth for the year ended June 30, 2005, we considered the Personnel Cabinet's internal control over financial reporting and compliance with laws, regulations, contracts and grant agreements in order to determine our auditing procedures for the purpose of expressing opinions included in the audit of the CAFR and SSWAK and not to provide an opinion on internal control or on compliance.

However, during our audit we became aware of certain matters that are opportunities for strengthening internal controls and operating efficiency. The SSWAK is a separate report dated March 9, 2006 and contains all reportable conditions and material weaknesses in the Commonwealth's internal control structure and also contains all reportable instances of noncompliance. This letter does contain Personnel Cabinet findings and our recommendations that have been extracted from the SSWAK report along with other matters that have been identified.



To the People of Kentucky  
Honorable Ernie Fletcher, Governor  
Erwin Roberts, Cabinet Secretary  
Personnel Cabinet

We will review the status of these comments during our next audit. We have already discussed many of these comments and suggestions with various Personnel Cabinet personnel, and we will be pleased to discuss them in further detail at your convenience, to perform any additional study of these matters, or to assist you in implementing the recommendations.

Included in the Personnel Cabinet's letter are the following:

- Acronym List
- Findings and Recommendations (Reportable Conditions and Other Matters)
- Summary Schedule of Prior Year Findings

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a long horizontal flourish extending to the right.

Crit Luallen  
Auditor of Public Accounts

Audit fieldwork completed –  
March 9, 2006

**LIST OF ABBREVIATIONS/ACRONYMS**

BCP	Business Continuity Plan
CAFR	Comprehensive Annual Report
CFDA	Catalog of Federal Domestic Assistance
Commonwealth	Commonwealth of Kentucky
COT	Commonwealth Office for Technology
DOI	Department of Insurance
FY	Fiscal Year
IT	Information Technology
KAR	Kentucky Administrative Regulation
KRS	Kentucky Revised Statutes
MARS	Management Administrative Reporting System
PERS	Personnel Cabinet
Personnel	Personnel Cabinet
RCW	Record of Control Weakness
SSWAK	Statewide Single Audit of Kentucky

**FINANCIAL STATEMENT FINDINGS*****Reportable Conditions Relating to Internal Controls and/or  
Reportable Instances of Noncompliance*****FINDING 05-PERS-1: The Personnel Cabinet Should Strengthen Controls To Minimize Potential Abuse Of Voter Leave**

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In determining the extent to which executive branch employees who received voting leave for the November 4, 2003, general election and the May 18, 2004, primary election actually voted, we requested and were given access to data from the State Board of Elections' voter history file and to certain Personnel Cabinet (Personnel) payroll files. By cross-referencing unique information from these files, we were able to substantiate that in the 2003 general election, 90.5 percent of state employees who received voting leave complied with statutory and regulatory requirements by voting. For the 2004 primary election, this compliance rate was 83 percent.

However, we identified 2,571 employees who took voting leave and yet did not appear to vote in the 2003 general election, claiming a total of 9,805 voting leave hours. Similarly, in the 2004 primary election, we identified 4,081 employees who apparently did not vote, claiming a total of 15,773 hours of voting leave. For these two elections alone, our cross-referencing procedures identified 6,652 instances of employees improperly recording voting leave.

In addition, an analysis of election data identified 1,202 employees who claimed voting leave in both elections but did not vote in either election. Even more egregious, in 709 instances an employee taking voting leave did not appear on the voter history file, indicating that these employees were not registered to vote or had been purged from the active voting register.

According to an employee of the State Board of Elections, the voter history file is updated after each election by a scanning device that reads certain information on the precinct roster to determine whether an individual voted. Every precinct roster contains a space for each voter's signature or, in the case of absentee voters, a stamp affixed by the clerk. The scanning device reads each line of the precinct roster to determine whether an individual voted. For a variety of reasons, the scan may not properly record every individual who actually voted. For example, the scanner may not record an improperly applied absentee stamp or a voter's signature not written in dark ink.

The findings resulting from this data analysis rely on the accuracy and integrity of the data contained in the files provided to this office from the State Board of Elections and Personnel. To substantiate the findings from the data match, we tested a sample of 828 employees identified as not voting. We examined election documentation in the county clerk's office of each of the 11 counties represented in the sample. Of those names found on precinct rosters, our sample exhibited an error rate of approximately five percent, documenting that certain employees had actually voted. We verified that 31 employees who actually voted were identified erroneously as non-voters due to various inconsistencies. Also, using the information from the current voter history file that records



**FINANCIAL STATEMENT FINDINGS*****Reportable Conditions Relating to Internal Controls and/or  
Reportable Instances of Noncompliance*****FINDING 05-PERS-1: The Personnel Cabinet Should Strengthen Controls To Minimize Potential Abuse Of Voter Leave (Continued)**

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the precinct where an individual is registered to vote, we could not locate on the precinct roster 163 employees within our sample. This may be due to updating the file with an individual's new address and voting precinct, which may differ from the precinct assigned at the date of election. Documentation examined for the 665 employees found on precinct rosters verified that approximately 95 percent of these employees did not vote. Documentation examined included precinct rosters, supplemental precinct rosters, and lists of absentee voters.

Considering the hourly wage of each of these employees at the time leave was taken, the cost of voting leave that did not comply with regulatory or statutory requirements totaled \$164,611 for the 2003 general election and \$259,910 for the 2004 primary. This misrepresentation of employees' time keeping resulted in an accumulated cost of approximately \$424,500 to the Commonwealth. The control process must be strengthened to minimize the potential abuse of voter leave in the future.

The Commonwealth provides state employees the benefit of four hours voting leave in accordance with 101 KAR 2:102, Section 7 and 101 KAR 3:105, Section 7, which state "[a]n employee who is eligible and registered to vote should be allowed upon prior request and approval, four (4) hours, for the purpose of voting." Further, KRS 118.035 states "any qualified voter who exercises his right to voting leave under this section but fails to cast his vote under circumstances which did not prohibit him from voting may be subject to disciplinary action."

**Recommendation**

We recommend Personnel implement the following controls and actions to strengthen the process to oversee the use of voting leave in the future:

- Personnel should provide employees instruction to reaffirm that an employee must vote to claim voting leave as stated in KRS 118:035 and 101 KAR 2:102, Section 7 and 101 KAR 3:105, Section 7.
- Personnel should consider that subsequent to voting, an employee who claims voting leave be required to sign an acknowledgement that will be retained by the agency that certifies the employee voted.
- Personnel should initiate an automated process to match the appropriate employee payroll records to voter history file data obtained from the Board of Elections and produce a report of employees that took voting leave but appear to have not voted.

## **FINANCIAL STATEMENT FINDINGS**

### ***Reportable Conditions Relating to Internal Controls and/or Reportable Instances of Noncompliance***

#### **FINDING 05-PERS-1: The Personnel Cabinet Should Strengthen Controls To Minimize Potential Abuse Of Voter Leave (Continued)**

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##### **Recommendation**

- In the future, Personnel should direct agencies to further investigate whether an employee appearing on the report produced by Personnel actually voted due to the possibility that the voter history file did not accurately record that the employee voted. To facilitate this investigation, Personnel could provide agencies with a preliminary draft list of employees that did not vote according to the data match performed by Personnel.
- In the future, Personnel should direct agency heads to adjust the annual or compensatory leave balances by the corresponding number of hours that further investigation verified were improperly claimed for voting leave.
- In the future, Personnel should direct agencies to take appropriate personnel action against employees who are determined to have inappropriately taken voting leave.

##### **Management's Response and Corrective Action Plan**

*The audit report issued last May did raise awareness about appropriate use of voting leave for future elections. As the Auditor's Office completed the audit of voting leave use for the November 2003 election and the May 2004 election, it seems that the Auditor's Office would be the appropriate agency to provide guidance to state agencies regarding the appropriate steps to take to prevent abuse of voting leave.*

*The Personnel Cabinet is aware that some agencies have taken the appropriate action to stress appropriate use of voting leave. Prior to every election, whether general or special, the Personnel Cabinet, through memorandum, reminds the appointing authority in each agency regarding the process for using voting leave, including the obvious requirement that an employee must vote in order to receive voting leave. In the future, the Personnel Cabinet will provide this memorandum via email to all state employees who have email accounts. For state employees without email access, the Personnel Cabinet will request that agencies post the memorandum for all state employees' information.*

*The Personnel Cabinet will explore the viability and productivity of an automated process to match appropriate payroll records to voter history file data. It is estimated that the expenditure required to create the process, conduct the audit and attempt to recover any time allegedly taken inappropriately far exceeds the estimated cost savings identified by your audit. The cost benefit analysis clearly leads to the conclusion this would be a wasteful use of taxpayer dollars.*

**FINANCIAL STATEMENT FINDINGS*****Reportable Conditions Relating to Internal Controls and/or  
Reportable Instances of Noncompliance*****FINDING 05-PERS-1: The Personnel Cabinet Should Strengthen Controls To  
Minimize Potential Abuse Of Voter Leave (Continued)****Management Response's and Corrective Action Plan (Continued)**

*It is recommended that the Personnel Cabinet direct agencies to further investigate whether an employee voted therefore justifying use of voter leave. Based upon your own audit, the "voter history file did not accurately record that an employee voted." Further investigation would require agencies in reliance upon incomplete and inaccurate information to confront employees about whether they voted in an election. In addition, agencies would be required to verify voting records from across the Commonwealth. Respectfully, the Personnel Cabinet will not request that agencies take action based upon an automated reconciliation process, which produces incomplete, inaccurate, and unreliable information as demonstrated in your audit of voting leave.*

*Voting leave must be monitored by each individual agency. As your audit demonstrates, it is a difficult challenge to verify each individual employee's voting record and use of voting leave. Instead, each agency must perform their own due diligence in determining whether their employees voted and took leave appropriately. There is also some concern that any attempt to regulate and investigate voting leave beyond what has historically been done could be construed as an attempt to infringe upon state employees' right to vote in general or as illegal political influence of state employees.*

*KRS 18A.005 clearly vests the appointing authority in each Cabinet or agency with the power to discipline their employees. The Personnel Cabinet will not take the recommended action to penalize employees outside the parameters delineated by current law. Each employee acknowledges the accuracy of their time and attendance when they sign their timesheets and submit them to their respective agency. The recommendation for an additional acknowledgement of voting is wasteful and simply adds an additional layer of bureaucracy with little added benefit to the Commonwealth. In addition, employees should be submitting leave slips for voting leave which are also signed by the employee.*

*Employees of the Commonwealth are guaranteed the right to voting leave, not by statute or Personnel Cabinet regulation, but by the Constitution of this great Commonwealth. The Personnel Cabinet strives to protect state employee rights, especially those guaranteed by the Constitution, and will not make recommendations to agencies or take action against state employees, unless complete, accurate, and reliable information warrants such action.*

*As always, the Personnel Cabinet, which maintains personnel information and records for state employees, stands ready to assist and cooperate in any way possible with the evaluation of voting leave.*

## **FINANCIAL STATEMENT FINDINGS**

### ***Other Matters Relating to Internal Controls and/or Instances of Noncompliance***

#### **FINDING 05-PERS-2: The Personnel Cabinet Should Have A Written Policy Prohibiting The Block 50 Payment Of Overtime To Ineligible Employees**

During our examination of payroll payments to one or more senior officials, we noted internal control weaknesses concerning overtime “Block 50” payments.

There is no regulation governing overtime payment for unclassified employees in policy-making positions, and those unclassified employees in ungraded positions. Historically, individuals in these positions have not received overtime payments during service. All employees, regardless of compensation, could receive accumulated leave upon separation from state service. The Personnel Cabinet has established a “List,” or guideline, setting forth those classifications, which are prohibited from receiving a “Block 50” overtime payment. In addition to the titles and codes of unclassified policymakers and ungraded employees, the “List” is not in administrative regulation, but has been in use by the Personnel Cabinet for at least three years.

During our testing we found four “Block 50” overtime payments to ineligible unclassified employees in policy-making positions during FY 2005.

There is an automatic stop within the payroll system that is coded in to exclude the “not eligible” employees and these are automatically cutback. These cutbacks for “Block 50’s” are sent to each agency, where they are then signed off for payment. The “Block 50’s” can then be manually processed for payment. This process resulted in the “Block 50” overtime payments to four ineligible employees during FY 2005.

Good management includes adequate internal controls to prevent the “Block 50” overtime payments to ineligible employees. Although Personnel has established a “List,” or guideline, setting forth those classifications, which are prohibited from receiving a “Block 50” overtime payment, it does not have a written policy or administrative regulation to clearly require agencies’ compliance.

#### **Recommendation**

We recommend the Personnel Cabinet introduce and enforce a written policy to prohibit the “Block 50” overtime payments to employees in classifications, which are prohibited from receiving a “Block 50” overtime payment. The written policy should clearly identify the employees on the established list of “Classes and Agencies Not Eligible for Block 50 Payments” who are allowed to receive “Block 50” payments.

## FINANCIAL STATEMENT FINDINGS

### *Other Matters Relating to Internal Controls and/or Instances of Noncompliance*

#### **FINDING 05-PERS-2: The Personnel Cabinet Should Have A Written Policy Prohibiting The Block 50 Payment Of Overtime To Ineligible Employees (Continued)**

##### **Management's Response and Corrective Action Plan**

*The Personnel Cabinet is in receipt of your Record of Control Weakness ("RCW"), Ref# 05-PERS2 electronically delivered on March 7, 2006. Indicated within the RCW are several incorrect assertions regarding the payment of accrued overtime/compensatory payments to state employees.*

*First, you incorrectly assert, "There is no regulation governing overtime payment for unclassified employees in policy-making positions, and those unclassified employees in ungraded positions." Clearly, the policy of the Personnel Cabinet regarding unclassified/ ungraded employees in policy making positions is succinctly contained in 101 KAR 3:015, Section 5, entitled "Compensatory Leave and Overtime" and prescribes,*

*An employee who is not in a policy-making position may, after accumulating 151 hours of compensatory leave, request that he be paid for fifty (50) hours at his regular rate of pay. If the appointing authority or his designee approves the payment, an employee's leave balance shall be reduced accordingly... An employee who is not in a policy-making position shall be paid for fifty (50) hours at his regular hourly rate of pay, upon accumulating at the end of the pay period, 240 hours of compensatory leave. The employee's leave balance shall be reduced accordingly. [Emphasis added]*

*This Personnel Cabinet regulation has been in place since at least the early 90's and enforced consistently and systematically by the Personnel Cabinet for at least the last three years of the current administration. We make no assertion as to its enforcement during any previous administration. Curiously, your audit only focuses on a mere four (4) employees out of approximately (38,000) in the executive branch. Please note the records are available if you choose to look further into the payroll actions of any past administration.*

*Second, you incorrectly assert, "During our testing we found four 'Block 50' overtime payments to ineligible unclassified employees in policy-making positions..." Our research notes the four individuals in question were in fact not in policy making positions, as reported by their respective agencies, at the time they earned these overtime payments and were therefore entitled to their earned*

**FINANCIAL STATEMENT FINDINGS*****Other Matters Relating to Internal Controls and/or Instances of Noncompliance*****FINDING 05-PERS-2: The Personnel Cabinet Should Have A Written Policy Prohibiting The Block 50 Payment Of Overtime To Ineligible Employees (Continued)****Management's Response and Corrective Action Plan (Continued)**

*overtime. Because appointing authorities in each respective agency indicate to the Cabinet what positions are in fact policy making, the Personnel Cabinet does not know by title code alone which employees are ineligible. The Cabinet relies on the expertise of the appointing authority in approving and certifying these determinations upon submission of the bi-weekly payroll vouchers. This is in compliance with the current regulation cited above.*

*The Personnel Cabinet will consider your recommendation of incorporation by reference of the prohibited list into our current regulation cited above. Please contact us if you need any additional information.*

**Auditor's Reply**

Our comment reflects that the Personnel Cabinet has not promulgated an administrative regulation, which includes unclassified employees in policy-making positions. The Personnel Cabinet's website states specific "Classes and Agencies Not Eligible for Block 50 Payments" listing the ineligible classifications. The Cabinet asserts that certain employees are misclassified and therefore payment of the "Block 50" payment was allowable inconsistent with the proper classification based on duties and responsibilities.

## **FINANCIAL STATEMENT FINDINGS**

### ***Other Matters Relating to Internal Controls and/or Instances of Noncompliance***

#### **FINDING: 05-PERS-3: The Personnel Cabinet Should Annually Update Its Business Continuity Plan And Maintain Adequate Insurance And Inventory Records Of IT Equipment**

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During our examination of the Personnel Cabinet for FY 2005, we noted internal control weaknesses concerning agency level disaster recovery planning and information technology (IT) fixed asset inventory/insurance coverage documentation.

The Personnel Cabinet does participate in the annual Commonwealth Office of Technology (COT) disaster recovery testing of mainframe based applications and has documented the procedures and results of this testing adequately. In addition, they participate in annual fire and tornado drills and have placed their emergency procedures online for easy access. However, the agency has not updated their Business Continuity Plan (BCP) since the year 2000; therefore, it does not reflect current agency level disaster recovery procedures required to recover critical business systems.

Discrepancies were also noted between the Personnel Cabinet's fixed asset tracking database and the Management Administrative Reporting System (MARS). A review of the assets reported in these two systems and the insurance coverage on file with the Department of Insurance (DOI) reveals that the agency's hardware is currently under-insured by \$268,605. Furthermore, it was determined that MARS is not being kept up-to-date to reflect current assets on file. Reasons provided by the agency were the lack of an inventory officer on staff for oversight, inadequate training of inventory responsibilities, and a backlog of inventory related data entry tasks.

Current, accurate, and available documentation is necessary to support the disaster recovery planning and related business continuity processes in order to ensure IT systems can be recovered effectively and efficiently in times of emergency. The agency level emergency procedures and related periodic testing requirements should be formally documented within the BCP and made available to all applicable employees. Failure to include system and data backup schedules and recovery procedures increases the likelihood that critical systems and data files will not be recoverable in a timely fashion and could cause unnecessary manual efforts to restore applications. Finally, inadequate insurance documentation increases the possibility of an insurance claim dispute over covered equipment.

Good management practices minimize risks through planning. The goal of a BCP is to improve preparedness at minimal cost using available resources. Accordingly, proper documentation and periodic training for the BCP assures that Personnel's IT systems can be recovered in cases of emergency, and that critical processes are not hindered by lengthy system down time. An effective BCP should document the contact information of personnel involved with disaster recovery procedures, critical systems and related data files with specific backup and recovery procedures, training and testing requirements, and update procedures intended for the BCP. Further, adequate inventory records of IT equipment are needed to ensure adequate insurance coverage for those assets. Those inventory records should be used when determining the necessary level of coverage.

## **FINANCIAL STATEMENT FINDINGS**

### ***Other Matters Relating to Internal Controls and/or Instances of Noncompliance***

#### **FINDING: 05-PERS-3: The Personnel Cabinet Should Annually Update Its Business Continuity Plan And Maintain Adequate Insurance And Inventory Records Of IT Equipment (Continued)**

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##### **Recommendation**

We recommend that the Personnel Cabinet update their BCP. This plan should be reviewed and updated annually as necessary to reflect emergency contacts, potential alternative processing sites, system descriptions and process requirements, backup procedures, manual procedures necessary to recover any lost data, and planned testing procedures. The plan should also take into consideration recommendations from the annual COT testing. In addition, the plan should be properly distributed to key personnel and training should be provided to those personnel as needed.

Furthermore, the Personnel Cabinet should ensure that all IT fixed assets are accurately recorded within MARS and that adequate insurance is on file with DOI to protect these assets.

##### **Management's Response and Corrective Action Plan**

*In the record of control weakness for fiscal year ending 06/30/05 the Personnel Cabinet was noted for having two weaknesses concerning agency level disaster recovery planning and information technology fixed asset inventory/insurance coverage documentation.*

*The Personnel Cabinet will ensure that the Business Continuity Plan is updated. The contact person responsible for corrective action will be the Information Systems Manager and the plan will include information regarding disaster recovery procedures for critical systems, backup and recovery procedures, emergency contacts, and alternative sites. This plan is expected to be updated and complete within the next six months.*

*The second control weakness identified is the fixed asset inventory/insurance coverage documentation. The Personnel Cabinet concurs with the Auditor's Office regarding "discrepancies" between inventory in the Management Reporting Database (MARS), the Cabinet's in-house inventory, and the insurance for fixed assets.*

*The Cabinet has begun to reconcile the differences and will establish an administrative system to reconcile data on a quarterly basis at minimum. The Cabinet has opened discussion with the Office of the Controller about best practices and plans to have administrative problems solved by June 30. The Cabinet's initial goal will be to fully insure fixed assets by May 15. The contact person responsible for updating the fixed assets will be the Personnel Program Manager.*



**SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS****FOR THE YEAR ENDED JUNE 30, 2005**


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<b>Fiscal Year</b>	<b>Finding Number</b>	<b>Finding</b>	<b>CFDA Number</b>	<b>Questioned Costs</b>	<b>Comments</b>
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**Reportable Conditions***(1) Audit findings that have been fully corrected:*

No findings for this section.

*(2) Audit findings not corrected or partially corrected:*

No findings for this section.

*(3) Corrective action taken is significantly different from corrective action previously reported:*

No findings for this section.

*(4) Audit finding is no longer valid and does not warrant further action:*

No findings for this section.

**Material Weaknesses/Noncompliances***(1) Audit findings that have been fully corrected:*

No findings for this section.

*(2) Audit findings not corrected or partially corrected:*

No findings for this section.

*(3) Corrective action taken is significantly different from corrective action previously reported:*

No findings for this section.

*(4) Audit finding no longer valid:*

No findings for this section.

**SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS****FOR THE YEAR ENDED JUNE 30, 2005**

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<b>Fiscal Year</b>	<b>Finding Number</b>	<b>Finding</b>	<b>CFDA Number</b>	<b>Questioned Costs</b>	<b>Comments</b>
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**Other Matters (Continued)*****(1) Audit findings that have been fully corrected:***

No findings for this section.

***(2) Audit findings not corrected or partially corrected:***

No findings for this section.

***(3) Corrective action taken is significantly different from corrective action previously reported:***

No findings for this section.

***(4) Audit finding no longer valid:***

No findings for this section.

